

Remarks

Applicant respectfully requests reconsideration in view of the amendment above and these remarks.

Claims 1-15 and 26 are pending, and claims 16-25 and 27-38 have been withdrawn from consideration in a final restriction requirement.

Regarding the Canadian Office Action, Applicant requests its consideration. Applicant's duty of disclosure is not limited to published documents, nor is the Office's obligation to review submitted information.

The specification has been amended to refer to the reference numbers in Fig. 6.

Applicant defers a response on the provisional double patenting issue until the issuance of at least one of the applications involved. Until then, the scope of the claims may change, and the decision whether to file a terminal disclaimer is premature.

The language in claims 1 and 26 regarding the "substantially the same type of material" has been amended. Therefore, the rejection of these claims as being indefinite is moot.

The rejections of claims 1-15 and 26 are all based on a combination with WO 91/16722. An obviousness inquiry requires consideration of the level of ordinary skill in the pertinent art at the time of the invention. Please see *Graham v. John Deere*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966). We respectfully submit that one of ordinary skill in the art at the time of invention would have an understanding of laser engraving technology, but not electroluminescent phosphor technology.

We further submit, given the above level of skill, a laser marking artisan would not instinctively consult the WO 91/16722 techniques for making electroluminescent phosphors because these phosphors are used for an entirely different and conflicting purpose. In particular, the phosphors are used to extend the brightness of lamp over time, whereas lasers are used to darken the materials in the claims to create markings in host polymers, thereby decreasing the brightness of the polymers. The Office Action fails to establish whether it was commonplace for a laser marking artisan to consult the electroluminescent arts for solutions. Moreover, there does not appear to be a known, unifying problem with a predictable solution encouraging a laser marking artisan to reach across the wide chasm to the electroluminescent arts.

But, even if a laser marking artisan did consult WO 91/16722, the level of skill needed to modify WO 91/16722 techniques and conflicting teachings would likely be outside of the artisan's expertise and skill.

The teachings of the cited references and WO 91/16722 are highly incompatible if combined as suggested in the Office Action due to the conflicting objectives; indeed, there does not appear to be sufficient "interrelated teachings of multiple patents" to support the combination. Please see *KSR Int'l Co. v. Teleflex, Inc.*, No. 04-1350 (U.S. Apr. 30, 2007), slip op. at 14. For example, the laser marking is inconsistent with the objective of maintaining brightness of a lamp over time.

Given the knowledge possessed by a person of ordinary skill in the art, additional knowledge or invention needed to combine the references as suggested in the Office Action, and the incompatibility of the references, there is not "an apparent reason to combine the known elements in the fashion claimed" Please see *KSR*, slip op. at 14.

Thus, the Office Action fails to establish a prima facie case of obviousness.

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Respectfully submitted,

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